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DEC - 9 1993

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matters of )  
 )  
Application of )  
 )  
Capitol Radiotelephone Inc. )  
d.b.a. Capitol Paging )  
 )  
For a Private Carrier Paging Facility )  
on the Frequency 152.480 MHz in )  
Huntington/Charleston, West Virginia )

PR Docket No. 93-231

and )  
 )  
Imposition of Forfeiture Against )  
 )  
Capitol Radiotelephone Inc. )  
d.b.a. Capitol Paging )  
 )  
Former Licensee of Station WNSX-646 )  
in the Private Land Mobile Radio )  
Services )

and )  
 )  
Revocation of License of )  
 )  
Capitol Radio Telephone Inc. )  
d.b.a. Capitol Paging )  
 )  
Licensee of Station WNDA-400 in the )  
Private Land Mobile Radio Services )

and )  
 )  
Revocation of License of )  
 )  
Capitol Radio Telephone Inc. )  
d.b.a. Capitol Paging )  
 )  
Licensee of Station WNWW-636 in the )  
Private Land Mobile Radio Services )

and )  
 )  
Revocation of License of )  
 )  
Capitol Radiotelephone Company, Inc. )  
 )  
Licensee of Station KWU-373 in the )  
Public Mobile Radio Service )

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FEDERAL COMMUNICATIONS COMMISSION  
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and )  
)  
Revocation of License of )  
)  
Capitol Radiotelephone Company, Inc. )  
)  
Licensee of Station KUS-223 in the )  
Public Mobile Radio Service )  
)  
and )  
)  
Revocation of License of )  
)  
Capitol Radiotelephone Co., Inc. )  
)  
Licensee of Station KQD-614 in the )  
Public Mobile Radio Service )  
)  
and )  
)  
Revocation of License of )  
)  
Capitol Radiotelephone Company, Inc. )  
)  
Licensee of Station KWU-204 in the )  
Public Mobile Radio Service )

To: Administrative Law Judge  
Joseph Chachkin

**PRIVATE RADIO BUREAU'S**  
**MOTION TO ENLARGE THE ISSUES**

1. Pursuant to Section 1.229(b)(3) of the Commission's Rules, the Private Radio Bureau hereby moves for the enlargement of the issues in the above-captioned proceeding to include the following issues:

To determine whether a settlement agreement executed by Capitol Radiotelephone Company, Inc. and RAM Technologies, Inc. on November 30, 1993, constitutes an abuse of the Commission's processes by Capitol Radiotelephone Company, Inc. and RAM Technologies, Inc.

To determine, in light of the findings under the preceding issue, whether Capitol Radiotelephone Company, Inc. and/or Ram Technologies, Inc. possess the requisite character qualifications to remain Commission licensees.

2. The Bureau's request is based on newly discovered facts. Thus, the instant motion is timely. Section 1.229(b)(3). Specifically, Bureau counsel first learned of the agreement which forms the basis of this motion during a telephone conversation with counsel for RAM Technologies, Inc. ("RAM") on December 1, 1993.

3. On November 30, 1993, Capitol Radiotelephone, Inc. ("Capitol"), the above-captioned licensee, and RAM, a party herein, executed a self-styled settlement agreement, a copy of which is attached. The settlement agreement requires Capitol to request dismissal of its above-captioned application for operation on 152.48 MHz and forego operation of such a station for eight years. The agreement requires RAM to seek dismissal as a party. In any event, RAM agrees "to the extent possible in light of RAM's obligations as an FCC licensee and its obligations to obey compulsory legal processes" not to participate further in the above-captioned proceeding. See Agreement at p. 2. Moreover, the agreement purports to suspend the deadlines for Capitol and RAM to respond to each other's discovery requests.

4. The Bureau submits that the agreement between Capitol

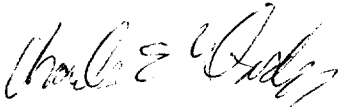
and RAM is nothing more than an attempt to contravene the Presiding Judge's ruling rejecting a settlement agreement in the above-captioned proceeding. Memorandum Opinion and Order, FCC 93M-722, released November 22, 1993. Thus, Capitol and RAM are trying to implement the rejected settlement agreement, with the exception of the provision calling for payment of the captioned forfeiture and a voluntary contribution by Capitol to the U.S. Treasury.

5. Moreover, these parties are attempting, by private agreement, to regulate the course of the proceeding. For example, they have taken upon themselves the suspension of discovery and the curtailment of RAM's participation. Indeed, the agreement makes clear that RAM's cooperation with the Commission as regards the matters at issue in this case would be grudging at best and "compulsory" at worst. These understandings between Capitol and RAM have the serious potential to interfere with the level of inquiry possible in this proceeding. For instance, RAM, the complainant, is known by the Bureau to be in exclusive possession of information relevant to the issues here which might be, and remain, unknown to the Commission. With RAM withdrawing as a party it might be expected to argue that it need not produce those witnesses that it would otherwise have been required to produce, and the Bureau could find it necessary to secure the appearance of those witnesses at government expense.

6. In sum, the Bureau submits that Capitol and RAM<sup>1</sup> appear to have abused the Commission's processes for their own private gain. We believe further inquiry is necessary.


Respectfully submitted,  
Ralph A. Haller  
Chief, Private Radio Bureau

By:

  
Charles E. Dziedzic  
Attorney

  
Y. Paulette Laden  
Attorney

Room 7212  
Tel: (202) 632-6402  
FAX: (202) 653-9659

  
Carol Fox Foelak  
Attorney

Room 5202  
Tel: (202) 632-7125  
FAX: (202) 634-7651

Federal Communications Commission  
2025 M Street N.W.  
Washington, D.C. 20554

December 9, 1993

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<sup>1</sup> The instant motion presents yet another reason that RAM should not be allowed to withdraw as a party. See Private Radio Bureau's Consolidated Opposition to RAM's Motion for Withdrawal and Notice of Withdrawal of Discovery Requests, filed December 8, 1993. RAM's party status is a prerequisite to the invocation of the principle of collateral estoppel, whereby RAM would be bound by any adverse findings as to its character qualifications made in this proceeding.

JOYCE



JACOBS

ATTORNEYS AT LAW

Attachment

December 2, 1993

Via Hand Delivery

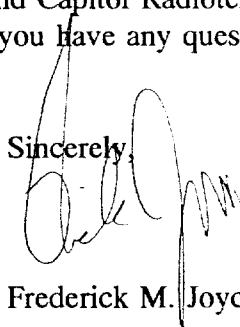
Paulette Laden, Esq.  
Mass Media Bureau  
Federal Communications Commission  
7212 2025 M Street, NW  
Washington, DC 20554

Re: RAM Technologies/Capitol Radiotelephone

Dear Ms. Laden:

At your request, enclosed you will please find a copy of the Settlement Agreement between RAM Technologies, Inc. and Capitol Radiotelephone concerning the above-referenced hearing proceedings. If you have any questions, please do not hesitate to contact me.

Sincerely,



Frederick M. Joyce

FMJ/gs

cc: Carol F. Foelak, Chief  
Robert A. Moyer, Jr., Pres./Ram Technologies

## S E T T L E M E N T   A G R E E M E N T

WHEREAS, RAM Technologies, Inc. ("RAM") and Capitol Radiotelephone Company, Inc. ("Capitol") have been made parties to certain formal hearing proceedings in PR Docket No. 93-231 (the "Proceedings") before the Federal Communications Commission (the "FCC") relating to the licensing and operation by Capitol of PCP Station WNSX646 on 152.48 MHz; and

WHEREAS, RAM and Capitol desire to eliminate or reduce, to the extent possible, RAMS's involvement in the Proceedings;

NOW, THEREFORE, in consideration of the premises and the mutual undertakings hereinafter set forth, RAM and Capitol hereby agree as follows:

1. RAM and Capitol hereby stipulate that the deadlines for responding to the discovery requests heretofore served by each upon the other in the Proceedings are indefinitely suspended. These requests include (a) RAM TECHNOLOGIES' INTERROGATORIES TO CAPITOL RADIOTELEPHONE COMPANY, INC., dated September 28, 1993; (b) RAM TECHNOLOGIES' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO CAPITOL RADIOTELEPHONE COMPANY, INC., dated September 28, 1993; (c) RAM TECHNOLOGIES' REQUEST FOR ADMISSIONS TO CAPITOL RADIOTELEPHONE COMPANY, INC., dated October 12, 1993; (d) CAPITOL'S FIRST SET OF INTERROGATORIES TO RAM TECHNOLOGIES, INC., dated November 24, 1993; and (e) CAPITOL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO RAM TECHNOLOGIES, INC., dated November 24, 1993. Within three business days after the execution hereof, RAM and Capitol will formally withdraw and dismiss all such discovery requests from the Proceedings, and will not thereafter initiate any other discovery requests to the other during the

course of the Proceedings. In addition, to the extent possible in light of RAM's obligations as an FCC licensee and its obligations to obey compulsory legal processes, RAM will endeavor in good faith to not participate further in the Proceedings.

2. Within three business days after the execution hereof, Capitol will request dismissal of its application in the Proceedings for a PCP station on 152.48 MHz. If the request to dismiss is denied by the Presiding Judge and the application is thereafter granted, Capitol will promptly surrender the station authorization for cancellation by the FCC, without constructing or operating the authorized facilities. In any event, neither Capitol nor any of its officers or directors (all of whom are identified hereinafter and agree to be personally bound by this agreement) will directly or indirectly construct or operate any radio station on 152.48 MHz in the states of West Virginia, Kentucky or Ohio for a minimum of eight years after the date of execution hereof. Also, Capitol, its affiliates, officers, directors, agents and employees will not directly or indirectly cause harmful interference to any radio station operating on the 152.48 MHz frequency, or any other shared frequency licensed to RAM, in the states of West Virginia, Kentucky and Ohio.

3. Within six business days after the execution hereof, RAM will request that it be permitted to withdraw as a party to the Proceedings.

4. This agreement may be executed in counterparts, all of which taken together shall constitute one and the same agreement, and will become effective upon execution by RAM and Capitol.

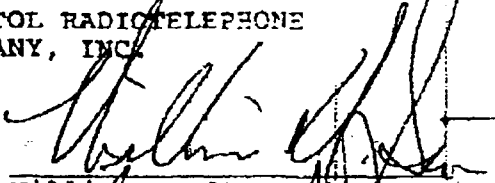


IN WITNESS WHEREOF, the parties have executed this agreement  
as of the 30th day of November, 1993.


CAPITOL RADIOTELEPHONE  
COMPANY, INC.

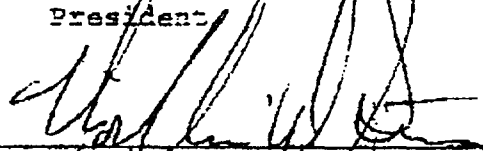
RAM TECHNOLOGIES, INC.

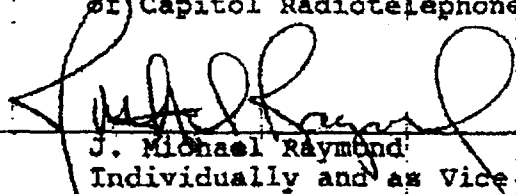
By:


  
William D. Stone  
President


By:


  
Robert A. Moyer, Jr.  
President

  
William D. Stone  
Individually and as Officer and Director  
of Capitol Radiotelephone Company, Inc.

  
J. Michael Raymond  
Individually and as Vice President -  
Chief Operating Officer, Capitol  
Radiotelephone Company, Inc.

  
Veronica L. Stone  
Individually and as Officer and Director  
of Capitol Radiotelephone Company, Inc.

  
Suzanne Jones  
Individually and as Director of  
Capitol Radiotelephone Company, Inc.

  
Hershel Layne  
Individually and as Director of  
Capitol Radiotelephone Company, Inc.

IN WITNESS WHEREOF, the parties have executed this agreement  
as of the 30th day of November, 1993.

CAPITOL RADIOTELEPHONE  
COMPANY, INC.

RAM TECHNOLOGIES, INC.

By:

William D. Stone  
President

By:

Robert A. Moyer, Jr.  
President

William D. Stone  
Individually and as Officer and Director  
of Capitol Radiotelephone Company, Inc.

J. Michael Raymond  
Individually and as Vice President -  
Chief Operating Officer, Capitol  
Radiotelephone Company, Inc.

Veronica L. Stone  
Individually and as Officer and Director  
of Capitol Radiotelephone Company, Inc.

Suzanne Jones  
Individually and as Director of  
Capitol Radiotelephone Company, Inc.

Hershel Layne  
Individually and as Director of  
Capitol Radiotelephone Company, Inc.

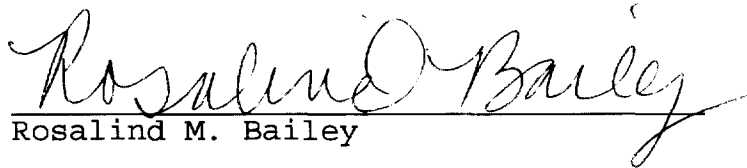
CERTIFICATE OF SERVICE

I, Rosalind M. Bailey, a secretary with the Private Radio Bureau, hereby certify that on this 9th day of December, 1993, copies of the foregoing **Private Radio Bureau's Motion to Enlarge the Issues** were served, by first-class U.S. mail, upon the following:

Kenneth E. Hardman, Esq.  
1255 23rd Street, N.W.  
Suite 830  
Washington, DC 20037

T. D. Kauffelt, Esq.  
803 Kanawha Valley Building  
P. O. Box 3082  
Charleston, WV 25331

Frederick M. Joyce, Esq.  
Joyce & Jacobs  
2300 M Street, N.W.  
Suite 130  
Washington, DC 20037

  
Rosalind M. Bailey